



September 10, 2020

**Sent via FOIAonline.gov portal**

National FOIA Office  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW (2310A)  
Washington, DC 20460

Re: Freedom of Information Act Request

Dear FOIA Officer:

Citizens for Responsibility and Ethics in Washington (“CREW”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, and Environmental Protection Agency (“EPA”) regulations at 5 C.F.R. part 2604.

First, CREW requests records sufficient to identify the EPA officials who failed to file termination and combined annual/termination financial disclosure reports as indicated in EPA’s 2018 agency ethics program questionnaire.<sup>1</sup>

Second, CREW requests all communications related to the filers’ failures to file the termination or combined annual/termination financial disclosure reports.

Third, CREW requests records sufficient to show whether the filers ultimately filed the termination or combined annual/termination financial disclosure reports.

Fourth, CREW requests records related to any referral EPA made to the Department of Justice over the filers’ failures to file the financial disclosure reports.

Please search for records created between January 1, 2018 through the date EPA conducts the search.

Please search for responsive records regardless of format, medium, or physical characteristics. We seek records of any kind, including paper records, electronic records, audiotapes, videotapes, photographs, data, and graphical material. Please include any attachments or other enclosures included in email communications.

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<sup>1</sup> Office of Gov’t Ethics, Environmental Protection Agency 2018 Agency Ethics Program Questionnaire, *available at* <https://bit.ly/3bIMafO> (Part 8, Question 36).

If it is your position that any portion of the requested records is exempt from disclosure, CREW requests that you provide it with an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973). If some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. See 5 U.S.C. § 552(b). If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document. See *Mead Data Central v. U.S. Dep't of the Air Force*, 566 F.2d 242, 261 (D.C. Cir. 1977).

### **Fee Waiver Request**

In accordance with 5 U.S.C. § 552(a)(4)(A) and agency regulations, CREW requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures likely will contribute to a better understanding of relevant government procedures by CREW and the general public in a significant way. See 5 U.S.C. § 552(a)(4)(A)(iii). Moreover, the request primarily and fundamentally is for non-commercial purposes. See, e.g., *McClellan Ecological v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

The failure of EPA officials to file financial disclosure reports is unacceptable and raises questions about the circumstances under which they left the government as well as EPA's ethics program. According to EPA's 2018 agency ethics program questionnaire, one Schedule C appointee and one career official did not file termination reports and one non-career SES official did not file a combined annual/termination report upon leaving the government.<sup>2</sup> Given the significant media attention related to Omarosa Manigault Newman's failure to file a termination report, the requested records are of significant interest to the public.<sup>3</sup> In addition, the records will show what actions, if any, EPA took to bring the filers into compliance or otherwise hold them accountable for their failures to comply with the Ethics in Government Act.

CREW is a non-profit corporation, organized under section 501(c)(3) of the Internal Revenue Code. CREW is committed to protecting the public's right to be aware of the activities of government officials, to ensuring the integrity of those officials, and to highlighting and working to reduce the influence of money on politics. CREW uses a combination of research, litigation, and advocacy to advance its mission. CREW intends to analyze the information responsive to this request and to share its analysis with the public through reports, press releases,

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<sup>2</sup> Office of Gov't Ethics, Environmental Protection Agency 2018 Agency Ethics Program Questionnaire, available at <https://bit.ly/3bIMafO> ("Termination Reports: One Schedule C did not file a termination report. Because of the government shutdown, one career employee submitted a termination report in January 2019, while one career employee did not submit a report at all. Combination Reports: One non-career SES did not file the annual/termination report.").

<sup>3</sup> Matt Zapotosky, Justice Department files complaint alleging Omarosa Manigault Newman failed to file financial disclosure report, *Washington Post*, June 25, 2019, available at <https://wapo.st/2ZnNz6B>; Veronica Stracqualursi, Omarosa Manigault Newman files motion to dismiss lawsuit over financial disclosure report, *CNN*, Sept. 12, 2019, available at <https://cnn.it/3bGKKIY>; Colin Kalmbacher, Omarosa Manigault Newman Loses a Round Against DOJ Over Civil Lawsuit, *Law & Crime*, May 21, 2020, available at <https://bit.ly/3hdz3o4>.

or other means. In addition, CREW will disseminate any documents it acquires from this request to the public through its website, [www.citizensforethics.org](http://www.citizensforethics.org). The release of information obtained through this request is not in CREW's financial interest.

CREW further requests that it not be charged search or review fees for this request pursuant to 5 U.S.C. § 552(a)(4)(A)(ii)(II) because CREW qualifies as a member of the news media. *See Nat'l Sec. Archive v. U.S. Dep't of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989) (holding non-profit a "representative of the news media" and broadly interpreting the term to include "any person or organization which regularly publishes or disseminates information to the public"). CREW routinely and systematically disseminates information to the public in several ways. CREW's website receives tens of thousands of page views every month. The website includes blogposts that report on and analyze newsworthy developments regarding government ethics, corruption, and money in politics, as well as numerous reports CREW has published to educate the public about these issues. In addition, CREW posts documents it receives under the FOIA its website, which has been visited hundreds of thousands of times.

Under these circumstances, CREW satisfies fully the criteria for a fee waiver.

### **Conclusion**

If you have any questions about this request or foresee any problems in fully releasing the requested records, please contact me at (202) 897-1845 or [mlerner@citizensforethics.org](mailto:mlerner@citizensforethics.org). Also, if CREW's request for a fee waiver is not granted in full, please contact our office immediately upon making such a determination.

Where possible, please produce records in electronic format. Please send the requested records to me at [mlerner@citizensforethics.org](mailto:mlerner@citizensforethics.org). If EPA is not able to provide the records electronically, please contact me to arrange an alternative method of transmission. Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read 'ML', is positioned above the typed name.

Meredith Lerner  
Research Associate